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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,259	02/25/2002	Igor Alexeff	20040	2015

20551 7590 04/09/2004

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EXAMINER

LEE, BENNY T

ART UNIT PAPER NUMBER

2817

DATE MAILED: 04/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES DEPARTMENT OF COMMERCE
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FILED DATE

of the examiner in charge of this application
PATENT AND TRADEMARKS

☐ This application has been examined ☒ Responsive to communication filed on 1 Dec 2003 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire Three (3) month(s), 2 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948. |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152 |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1, 2, 4, 6-17, 19-14 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
2. ☒ Claims 3, 5, 18 have been cancelled.
3. ☒ Claims 1, 2, 4, 6-8, 10-13; 14-17, 19-32; 41 are allowed.
4. ☒ Claims 9; 33-38 are rejected.
5. ☒ Claims 39, 40 are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
10. ☒ The proposed additional or substitute sheet(s) of drawings, filed on 1 Dec 2003, has (have) been ☒ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

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Claim 9 is rejected under 35 U.S.C. 112, first paragraph, as the containing subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The specification still fails to characterize what constitutes mixtures thereof to the degree necessary such that one skilled in the art would not be able to ascertain such mixtures without resorting to undue experimentation.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 33-38 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by either Kaufman et al reference (i.e. 531 or '034), both of record for reasons of record.

Applicant's arguments filed December 1, 2003 have been fully considered but they are not persuasive. Regarding the continued rejection of claim 9 under 35 USC 112, first paragraph, the examiner points out that the mere change from "combinations thereof" to --mixtures thereof-- appears to be merely one of form and not substance. The issue continues to be one of the specification failing to provide adequate information regarding what "mixtures" are intended. Absent such relevant information one skilled in the art would not have been enabled to make and use the invention without resorting to undue experimentation.

Regarding the rejection of claims 33-38, applicant's have argued that the apparatus of either Kaufman et al reference fails to recite the purposeful method steps as recited in claim 33 and claims dependent therefrom. In particular, it has been argued

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That neither Kaufman et al reference discloses a step of identifying desired signals from a remote source using plasma to reflect or pass signals in particular frequency bands; and placement of an antenna such as to receive desired frequency signals.

In response the examiner respectfully disagrees with applicant's assertions. It should be noted that "a step of identifying..." would have inherently been a design consideration for any device of this type based upon desired operating parameters. Moreover, note that when the device of either Kaufman et al reference operates in a receive mode, inherently the signals (desired and undesired) must have been provided by some kind of remote source (e.g. satellite, external transmitter, etc). Furthermore, contrary to applicant's assertion, the gaseous tube when excited generates a plasma therein which reflects and passes signals of particular frequencies as explained in the above rejection. Finally, as evident from each Kaufman et al reference, a probe functions as an antenna for coupling signals there have interacted with the plasma.


THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Benny Lee at telephone number (571) 272-1764.

A handwritten signature in black ink that reads "Benny Lee". The signature is written in a cursive, flowing style.

BENNY T. LEE
PRIMARY EXAMINER
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